

ESTTA Tracking number: **ESTTA205764**

Filing date: **04/18/2008**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91120453
Party	Plaintiff HEARST COMMUNICATIONS, INC. and Hearst Magazines Property, Inc.
Correspondence Address	THEODORE H. DAVIS, JR KILPATRICK STOCKTON LLP 1100 PEACHTREE St, NE, STE 2800 ATLANTA, GA 30309-4530 UNITED STATES
Submission	Other Motions/Papers
Filer's Name	Lauren T. Estrin
Filer's e-mail	tdavis@kilpatrickstockton.com, lestrin@kilpatrickstockton.com, bfitzpatrick@hearst.com, mwanamaker@hearst.com, kteilhaber@kilpatrickstockton.com
Signature	/Lauren T. Estrin/
Date	04/18/2008
Attachments	Wilson - Show Cause.pdf ( 7 pages )(18549 bytes )

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Hearst Communications, Inc. and	)	
Hearst Magazines Property, Inc.,	)	
	)	
Opposers,	)	
	)	Opposition No. 91120453
v.	)	
	)	
Charles Browning Wilson,	)	
	)	
Applicant.	)	

**OPPOSERS' RESPONSE TO SHOW CAUSE ORDER**

Pursuant to Trademark Rules of Practice 2.128(a)(3) and 2.117(c), Opposers Hearst Communications, Inc. and Hearst Magazines Property, Inc. ("Opposers") submit the following response to the Board's March 19, 2008 show cause order.

Opposers have not lost interest in this case. Earlier in this litigation, the parties stipulated to, and the Board approved, an extended trial schedule that permitted the submission of testimony through declaration testimony and sworn responses to written cross-examination. That schedule, however, did not expressly identify a date on which the parties' respective testimony periods ended, which left open the question of when the parties' briefs on the merits would be due. Prior to receiving the show cause order, the parties had discussed appropriate dates for the submission of those briefs and had agreed to propose those dates under cover of the stipulated motion attached as **Exhibit A**, which has also been filed with the Board as a separate document.<sup>1</sup> Opposers therefore respectfully request the

---

<sup>1</sup> During the same time period, the parties also exchanged settlement proposals that might have made the need for trial briefs unnecessary; these discussions, however, did not result in a resolution of the parties' differences.

Board to continue its consideration of this proceeding and to allow the parties to submit their briefs according to the stipulated proposed briefing schedule.

This 18th day of April, 2008.

Respectfully submitted,

/Lauren T. Estrin/

Theodore H. Davis Jr.

Olivia Maria Baratta

Lauren T. Estrin

KILPATRICK STOCKTON LLP

1100 Peachtree Street, NE

Atlanta, Georgia 30309-4530

(404) 815-6500 (telephone)

(404) 815-6555 (facsimile)

Attorneys for Opposer

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Hearst Communications, Inc. and	)	
Hearst Magazines Property, Inc.,	)	
	)	
Opposers,	)	
	)	Opposition No. 91120453
v.	)	
	)	
Charles Browning Wilson,	)	
	)	
Applicant.	)	

**CERTIFICATE OF SERVICE**

I hereby certify that on this date, I served the foregoing **OPPOSERS' RESPONSE TO SHOW CAUSE ORDER**, upon Applicant via electronic transmission per opposing counsel's consent to:

robert@steckmanlaw.com.

This the 18th day of April, 2008.

/Lauren T. Estrin/  
Lauren T. Estrin

# **EXHIBIT A**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Hearst Communications, Inc. and	)	
Hearst Magazines Property, Inc.,	)	
	)	
Opposers,	)	
	)	Opposition No. 91120453
v.	)	
	)	
Charles Browning Wilson,	)	
	)	
Applicant.	)	

**JOINT MOTION FOR LEAVE TO PERFECT THE RECORD  
AND RESET TRIAL BRIEFING SCHEDULE**

Opposers, Hearst Communications, Inc. and Hearst Magazines Property, Inc. (“Opposers”) and Applicant, Charles Browning Wilson (“Applicant”) (collectively, “the Parties”) respectfully move the Trademark Trial and Appeal Board (“the Board”) for leave to perfect the record and reset the Parties’ schedule for submitting their trial briefs on the merits as set forth below.

**I. Leave to Perfect the Record**

Pursuant to an agreement between the parties, the Board previously authorized the submission of testimony in this action on written questions, rather than through deposition transcripts. Based on the Board’s scheduling orders, both Parties submitted written questions and timely served all responses. Upon review of the record, the Parties discovered that certain submissions of testimony were signed by counsel and not verified by the Parties themselves. Before this Opposition proceeds to the trial phase, the Parties seek to perfect the record and ensure that all previously-submitted testimony is properly verified. Because the Parties have timely served all documents and testimony under the Board’s scheduling orders,

they jointly request leave to perfect the record to the extent that any previously-served testimony must be verified by the Parties.

## **II. Briefing Schedule**

For a number of months, the Parties have been engaged in ongoing settlement discussions. During this time, the Parties continued to exchange testimony upon written questions according to the Board's scheduling orders. Up and until the deadline for Opposers to submit their trial brief on the merits, the Parties have been actively discussing a settlement of this dispute, which would have made the need for trial briefs unnecessary.

Although the Parties continue to discuss an amicable resolution, they believe that it is in the best interests of the Parties and the Board to continue with the submission of trial briefs to prevent any unreasonable delay in this proceeding. Thus, the Parties respectfully move the Board to reset the trial briefing schedule as follows:

Filing and Service of Opposers' Trial Brief on the Merits	July 2, 2008
Filing and Service of Applicant's Trial Brief on the Merits	September 30, 2008
Filing and Service of Opposers' Reply Brief	November 13, 2008 (or forty-five days after the submission of Applicant's Trial Brief)

As explained above, the Parties have good cause for resetting the briefing schedule, which is not based on lack of diligence on the Parties, but a result of ongoing settlement discussions.

This the 18th day of April, 2008.

Respectfully submitted,

/Robert M. Steckman/

Robert M. Steckman  
Law Office of Robert Steckman, P.C.  
111 John Street, Suite 800  
New York, New York 10038  
Tel: (212) 313-9898  
Fax: (212) 313-9899

Attorney for Applicant

/Theodore H. Davis Jr./

Theodore H. Davis Jr.  
Olivia Maria Baratta  
Lauren T. Estrin  
KILPATRICK STOCKTON LLP  
1100 Peachtree Street, NE  
Atlanta, Georgia 30309-4530  
Tel: (404) 815-6500  
Fax: (404) 815-6555

Attorneys for Opposer